

PATENT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant:	FAHEY ET AL.)	
)	Examiner A. Flanders
Appl. No.	09/972,381)	
)	Art Unit 2644
Confirm. No.	5141)	
)	Atty. Docket No. CS90041
Filed:	5 October 2001)	
Title:	"Mobile Wireless Communication Handset with Sound Mixer And Methods Therefor"		

SUPPLEMENTAL REPLY BRIEF
UNDER 37 C.F.R. § 41.41

Assistant Commissioner for Patents
Alexandria, Virginia 22313

Sir:

REMARKS

Discussion of Claims 5, 6, 18, 30 & 37

The Examiner's interpretation of the passage in paragraph [0020] of Hruska that the "Users are allowed to rearrange which ... parts are playing at any given time" to read on the limitations of Claim 5 is overreaching. Regarding Claim 5, there is absolutely no disclosure or teaching in Hruska for

... entering the first reference data by selecting the first soundtrack,

entering second reference data by selecting the second soundtrack while the first soundtrack is playing,
playing the second soundtrack with the first soundtrack after selecting the second soundtrack.

Regarding Claim 6, there is absolutely no disclosure or teaching in Hruska for

... entering the first reference data by selecting the first soundtrack,
entering first effect reference data for a first soundtrack effect of the soundtrack data set file by selecting the first soundtrack effect while the first soundtrack is playing,
playing the first soundtrack effect with the first soundtrack upon selecting the first soundtrack effect.

The phrase "at any time" only refers to when re-arrangement may be made; it does not specify how the re-arrangement is performed. Hrsuska does not disclose that a soundtrack or a soundtrack effect of a polyphonic audio mix may be re-mixed, e.g., selected, while another soundtrack or soundtrack effect is playing. Claims 18, 30 & 37 are allowable over Hruska for similar reasons.

Discussion of Claim 14

Hruska does not disclose "... integrating the audio mix data reference file and the soundtrack data set file into an audio format file" on a handheld mobile wireless communication device. At paragraph [0038], Hruska discusses generating a MIDI sequence file and control file on a personal computer or server and downloading the combined file onto a mobile device. Hruska does not disclose combining files on the mobile device and

then uploading the combined files to the mobile device. Claim 14 is thus patentably distinguished over Hruska.

Discussion of Claim 34

Regarding Claim 34, contrary to the Examiner's assertion, Hruska does not disclose creating a polyphonic audio mix on a handheld mobile wireless communication device by "selecting" first and second soundtracks having different time intervals and mixing the first and second soundtracks. In Hruska, at paragraph [0020], each measure of the 16 measure MIDI file has the same time interval and each musical (instrument) pattern corresponds to one measure. Thus the selected instrument patterns of Hruska have the same time interval. Changing the tempo in Hruska affects the time interval of each measure (and the selected instrument pattern) similarly. Assuming *arguendo* that Hruska could change the tempo while playing a mix (though Hruska does not support such an assumption), changing the tempo is not the same as "selecting" soundtracks having different time intervals. Selecting a first instrument to play for sequential measures and another instrument to play for a different sequence of measures does not read on Claim 14. Hruska merely associates different instruments with fixed interval measures. In Hruska, the selecting instruments have no temporal characteristic until associated with a measure. But in Hruska, each measure has the same duration. In other words, Hruska does not disclose soundtracks having differing time intervals. Claim 34 is thus patentably distinguished over Hruska.

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Respectfully submitted,

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